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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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DEL MONTE FRESH PRODUCE INTERNATIONAL,
INC.; DEL MONTE FRESH PRODUCE N.A., INC.

Plaintiffs,

13 CV

-against-

VERIFIED COMPLAINT

M/V GREEN BRAZIL; her engines, tackle, etc., *in rem*;
SEATRADE GROUP N.V., GREENSEA GROUP N.V.,
GREENSEA CHARTERING B.V.B.A., TRANSIT
INVEST ASA, GREEN REEFERS ASA, GREEN
SHIPPING AS, GREEN MANAGEMENT SP.Z.O.O., *in*
personam,

Defendants.

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Plaintiff, by and through its attorneys, Zeller & Wieliczko, LLP and Casey & Barnett, LLP, as and for the Verified Complaint against the Defendants, allege, upon information and belief, as follows:

JURISDICTION

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and 28 United States Code § 1333.

THE PARTIES

2. Upon information and belief plaintiff, DEL MONTE FRESH PRODUCE INTERNATIONAL, INC. (hereinafter “DEL MONTE INTERNATIONAL”), was, and still is, a company organized and existing pursuant to the laws of Liberia, with an office and place of business located at 74 Boulevard d’Italie, Monte Carlo, Monaco, 9800 and was, and is the owner, receiver and/or consignee of a consignment of bananas laden on board the M/V GREEN BRAZIL, as more specifically described below.

3. Upon information and belief plaintiff, DEL MONTE FRESH PRODUCE N.A., INC. (hereinafter “DEL MONTE”), was, and still is, a company organized and existing pursuant to the laws of a state or country other than New York with an office and place of business located at 241 Sevilla Avenue, Coral Gables, Florida 33134 and was, and is the owner, receiver and/or consignee of a consignment of bananas laden on board the M/V GREEN BRAZIL, as more specifically described below.

4. At all material times, defendant Seatrade Group N.V., (hereinafter “Seatrade”) is a foreign company with an office and place of business located at Kaya Flamboyan 11, PO Box 4918, Curacao, Netherlands Antilles, and was and is the disponent owner and / or charterer and/or operator of the M/V GREEN BRAZIL.

5. At all material times, defendant GreenSea Group N.V., (hereinafter “GreenSea Group”) is a foreign company with an office and place of business located at North Trade Building, 3rd floor, Noorderlaan 133, 2030 Antwerp, Belgium, and was and is the owner and / or charterer and/or operator of the M/V GREEN BRAZIL.

6. At all material times, defendant GreenSea Chartering B.V.b.a., (hereinafter “GreenSea Chartering”) is a foreign company with an office and place of business located at North Trade Building, 3rd floor, Noorderlaan 133, 2030 Antwerp, Belgium, and was and is the owner and / or charterer and/or operator of the M/V GREEN BRAZIL.

7. At all material times, defendant Transit Invest ASA (hereinafter “Transit”) is a foreign corporation or other business entity with a place of business located at Bradbenken 1 C/O Wilson, NO-5835 Bergen, Bergen 4141, Norway, and was and is the beneficial owner and / or charterer and/or operator of the M/V GREEN BRAZIL.

8. At all material times, defendant Green Reefers ASA (hereinafter “Green Reefers”) is a foreign corporation or other business entity with a place of business located at 7 Ulsmaagveien, Nestunn, Bergen, 5852 Norway, and was and is the owner and / or charterer and/or operator of the M/V GREEN BRAZIL.

9. At all material times, defendant Green Shipping AS (hereinafter “Green Shipping”) is a foreign corporation or other business entity with a place of business located at Ulsgmav 7, Nesttun, N-5224, Norway, and was and is the owner and / or charterer and/or operator of the M/V GREEN BRAZIL.

10. At all material times, defendant Green Management Sp.z.o.o. (hereinafter “Green Management”) is a foreign corporation or other business entity with a place of business located

at ul. Pulaskiego 6, Gdynia, 81368, Poland, and was and is the manager and/or owner and / or charterer and/or operator of the M/V GREEN BRAZIL.

11. At all material times, the M/V GREEN BRAZIL was and is an ocean-going reefer vessel built in 1994, Bahamas-flagged, call sign C6WH6, engaged in the common carriage of cargoes on the high seas and is currently, or soon will be, within the jurisdiction of this Honorable Court.

12. This action is brought on behalf of and for the interest of all parties who may be or may in the future become interested in the cargo referred to hereinbelow, as their respective interests may ultimately appear.

RELEVANT FACTS

13. On or about December 12, 2013, a consignment consisting of, *inter alia*, 170,989 cartons of bananas and melons then being in good order and condition, was delivered to the *in personam* defendants and/or their agents, and the M/V GREEN BRAZIL at the port of Santo Tomas, Guatemala for transportation to Gloucester City, New Jersey in consideration of an agreed upon freight and in accordance to the terms of one or more bills of lading, which were then and there signed and delivered to the shipper of the cargo by the duly authorized agent, representative and/or employee of the defendants and the M/V GREEN BRAZIL, and with instructions to maintain the cargo at a proper temperature and under controlled atmosphere.

14. Thereafter, the aforementioned consignment was loaded aboard the M/V GREEN BRAZIL in compartments 1, 2, and 3, the bills of lading were issued and the vessel sailed for her intended destination.

15. During the ocean voyage, the shipment was subjected to temperatures and/or controlled atmosphere that were not within the instructions provided by the shipper all while in the care and custody of the defendant and/or its agents.

16. On or about December 16, 2013 the vessel arrived in Gloucester City, New Jersey and commenced discharging the aforementioned consignment of bananas.

17. Upon delivery, and as a result of the foregoing, it was immediately determined that the consignments of bananas loaded in compartments 1 and 2 were not in the same good order and condition as when received by the vessel and the *in personam* defendants in Guatemala, but, to the contrary, had suffered damage during transit and were in a distressed state of ripe and turning.

18. It was ultimately determined that 109,908 cartons of bananas were no longer fit for human consumption and would need to be sold at discount, dumped, donated or otherwise destroyed.

19. The damage to the aforementioned consignment of premium bananas did not result from any act or omission on the part of plaintiff or shipper, but to the contrary, was the result in whole or in part, of the negligence, fault, neglect, breach of contract of carriage, and bailment on the part of the defendants and/or the unseaworthiness of the M/V GREEN BRAZIL.

20. By reason of the foregoing, plaintiffs have sustained damages in the total amount of \$1,500,000.00 or as near thereto as currently can be determined, plus expenses, no part of which has been paid, although duly demanded.

WHEREFORE, Plaintiff prays:

1. Judgment be entered against all defendants in the amount of \$1,500,000.00, together with costs, disbursements and interest;
2. A warrant of arrest be issued against the M/V GREEN BRAZIL;
3. An order that the M/V GREEN BRAZIL post security for the subject action in the amount of \$1,500,000.00plus interest and costs; and
4. That plaintiff have such other and further relief as the Court may deem just and proper.

Dated: December 18, 2013

ZELLER & WIELICZKO, LLP
Attorneys for Plaintiffs

By: /s/ Matthew B. Wieliczko
MATTHEW B. WIELICZKO, Esquire

CASEY & BARNETT LLP
Attorneys for Plaintiffs
Gregory G. Barnett
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VERIFICATION

STATE OF NEW JERSEY)
) ss.:
COUNTY OF CAMDEN)

MATTHEW B. WIELICZKO, Esquire, being duly sworn, deposes and says:

That he is an attorney at law admitted to practice in the Courts of this State and before this Honorable Court and is a member of the firm of ZELLER & WIELICZKO, LLP, attorneys for plaintiff herein; that he has read the foregoing Verified Complaint and knows the contents thereof, and that the same is true to the best of his knowledge, information and belief.

That the reason that this Verification is made by deponent and not by Plaintiff is that Plaintiff is a corporation, no officers or directors of which are now within this District.

That the source of deponent's information and ground of his belief are public records and documents.

/s/ Matthew B. Wieliczko
MATTHEW B. WIELICZKO, Esquire